

SENATE BILL NO. 510

INTRODUCED BY K. GEBHARDT

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE A 50 PERCENT ABATEMENT OF THE COAL GROSS PROCEEDS TAX FROM A NEW OR EXPANDING UNDERGROUND COAL MINE; PROVIDING THAT THE ABATEMENT CAN LAST FOR 5 10 YEARS; REQUIRING ~~APPROVAL~~ NOTIFICATION OF ALL AFFECTED SCHOOL DISTRICTS; PROVIDING FOR THE DISTRIBUTION OF THE REDUCED TAX COLLECTIONS; AMENDING SECTION 15-23-703, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. New and or expanding underground mines -- tax abatement.** (1) A county may abate taxation under this chapter for production from a new OR EXPANDING underground coal mine by 50% for 5 OR 10 years.

(2) An abatement must be authorized by the governing body of a county. Before an abatement authorization is effective, the school boards of all affected school districts ~~shall approve~~ MUST BE NOTIFIED OF the abatement. The authorization must be made by a resolution of the county governing body after a public hearing. The county governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first publication may be no more than 30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

(3) An abatement authorization may be made for a 5-tax-year period ~~or, AND UPON EXPIRATION OF THAT PERIOD, it may be made for a 1-tax-year period and be authorized for up to 4 more consecutive tax years~~ ONE MORE 5-TAX-YEAR PERIOD. An abatement authorization must be made prior to the beginning of the property tax year in which abatement is in effect. The department must be notified of each abatement authorization prior to the beginning of the tax year.

(4) (A) PRODUCTION FROM A NEW UNDERGROUND MINE IS ALL PRODUCTION FROM A MINE THAT IN THE YEAR PRIOR TO TAX YEAR IN WHICH THE FIRST ABATEMENT WILL APPLY HAD PRODUCTION OF LESS THAN 500,000 TONS OF COAL AND THE PRODUCTION DURING THE COURSE OF THE ABATEMENT PERIOD IS ESTIMATED TO BE AND ACTUALLY AMOUNTS

1 TO AT LEAST FIVE TIMES THE PREABATEMENT PRODUCTION AMOUNT.

2 (B) PRODUCTION FROM AN EXPANDING UNDERGROUND MINE IS THAT PORTION OF THE MINE'S PRODUCTION THAT
3 EXCEEDS THE AVERAGE PRODUCTION FOR THE PREVIOUS 3 YEARS. TO QUALIFY FOR THE ABATEMENT, THE TOTAL OF THE
4 PRIOR AVERAGE PRODUCTION AND THE NEW PRODUCTION MAY NOT DECREASE DURING THE TIME OF THE ABATEMENT.

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6 **Section 2.** Section 15-23-703, MCA, is amended to read:

7 **"15-23-703. Taxation of gross proceeds -- taxable value for county classification and guaranteed**
8 **tax base aid to schools.** (1) The department shall compute from the reported gross proceeds from coal a tax
9 roll that must be transmitted to the county treasurer on or before September 15 each year. The department may
10 not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax ~~of 5%~~ against the
11 value of the reported gross proceeds as provided in 15-23-701(1)(d). The tax rate is either 5% or, if there is a tax
12 abatement for production from a new OR EXPANDING underground mine as provided in [section 1], 2.5%. The
13 county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

14 (2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is
15 45% of the contract sales price as defined in 15-35-102.

16 (3) Except as provided in ~~subsection~~ subsections (6) and (7), the county treasurer shall calculate and
17 distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds
18 tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and
19 sold on which the coal gross proceeds tax was owed during the preceding calendar year.

20 (4) Except as provided in subsections (5), (6), (7), and ~~(8)~~ (9), the county treasurer shall credit the
21 amount determined under subsection (3) and the amounts received under 15-23-706:

22 (a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the
23 relative proportions required by the levies for state and county purposes in the same manner as property taxes
24 were distributed in fiscal year 1990 in the taxing jurisdiction; and

25 (b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988
26 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of
27 levying mills against production, in the same manner that property taxes collected or property taxes that would
28 have been collected would have been distributed in the 1990 school fiscal year in the school district.

29 (5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3),
30 the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send

the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) If there is a distribution of coal gross proceeds from a new OR EXPANDING underground mine with a tax abatement as provided under [section 1], the county treasurer shall reduce the distribution to all entities receiving a distribution of the tax SUBJECT TO THE ABATEMENT, including the state, by 50%.

~~(6)(7)~~ The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If the allocation in subsection ~~(6)(a)~~ (7)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

~~(7)(8)~~ The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection ~~(7)(a)~~ (8)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

~~(8)(9)~~ The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [section 1].

NEW SECTION. Section 4. Applicability. [This act] applies to tax years beginning after December 31,

1 2009.

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